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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/673,513

09/30/2003

David L. O'Meara

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04/01/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

COLEMAN, WILLIAM D

ART UNIT

PAPER NUMBER

2823

NOTIFICATION DATE

DELIVERY MODE

04/01/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DAVID L. O'MERA, DANIEL CRIAG BURDETT,
STEPHEN H. CABRAL, GERT LEUSINK,
JOHN WILLIAM KOSTENKO and CORY WAJDA

Application 10/673,513
Technology Center 2800

Mailed: March 31, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences (BPAI) on July 29, 2008. A review of the application has revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

RESPONSE TO BPAI UNDOCKETED RETURN REQUIRED

An “Order Returning Undocked Appeal to the Examiner” was mailed by the BPAI on January 9, 2008 requiring the Examiner to

- 1) vacate the Supplemental Examiner's Answer mailed April 19, 2007, and issue a Supplemental Examiner Answer that is in compliance with MPEP § 1207.02 acquiring the appropriate TC Group Director Approval . . .

On March 27, 2008, the Examiner mailed a paper noting the Reply Brief filed June 7, 2007 and stating that the application has been forwarded to the Board. There is no response to the Return Order of January 9, 2008. If the Examiner wishes to retain the Answer in question, then the Examiner should comply as noted above or in the alternative if the Examiner wishes to cancel the supplemental Answer in question, then the Examiner needs to issue official communication stating that the Answer has been vacated. A response is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to either:

- 1) vacate the Supplemental Examiner's Answer mailed April 19, 2007, and issue a Supplemental Examiner Answer that is in compliance with MPEP § 1207.02 acquiring the appropriate TC Group Director Approval; or

2) issue and mail a form PTOL-90 or similar paper, stating that the Supplemental Answer of April 19, 2007 has been vacated without being reissued; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/vsh

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314